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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/604,082	06/27/2000	Steven M. Bessette	45112-089	4329

7590 06/26/2003

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EXAMINER

AFREMOVA, VERA

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 06/26/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/604,082

Applicant(s)

Bessette et al.

Examiner

Vera Afremova

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Apr 22, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 4, 7, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39 <sup>41, 43 and 45 - 45</sup> is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 4, 7, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33 <sup>35, 37, 39, 41, 43 and 45-45</sup> are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other

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## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection on 4/22/2003 [Paper No. 15]. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/22/2003 has been entered [claim amendment in the Paper No. 16 filed 4/22/2003 and claim amendment in the Paper No. 12 filed 10/22/2002].

### ***Status of claims***

Claims 1,3,5,8,10,12,14,16,18,20,22,24,26,28,30,32,34,36,38,40,42 and 44 were canceled by applicants [Paper No. 12 filed 10/22/2002].

Claims 2, 6 and 9 were canceled by applicants [Paper No. 8 filed 2/11/2002].

Claims 4,7,11,13,15,17,19,21,22,23,25,27,29,29,31,33,35,37,39,41,43,45 as amended [Paper No. 16 filed 4/22/2003] and new claims 46-49 [Paper No. 16 filed 4/22/2003] are pending and subject to restriction requirement.

### ***Restriction***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 4, 19 and 45, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil and an additional ingredient selected from the group

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consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol, classified in class 424, subclass 745, for example.

II. Claims 7 and 11, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil and a conventional pesticide such as piperonyl butoxide, classified in class 424, subclass 745, for example.

III. Claims 13, 39, 43 and 49, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, sesame oil, soybean oil and an additional ingredient selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol, classified in class 424, subclass 725, for example.

IV. Claims 15, 41 and 46, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, sesame oil and an additional ingredient selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol, classified in class 424, subclass 725, for example.

V. Claims 17, 29, 31, 37 and 47, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, soybean oil and an additional ingredient selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol, classified in class 424, subclass 757, for example.

VI. Claim 21, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, peppermint oil, eugenol, phenethyl propionate and methyl salicylate, classified in class 424, subclass 747, for example.

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VII. Claim 23, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, peppermint oil, eugenol, phenethyl propionate and menthyl salicylate, classified in class 424, subclass 747, for example.

VIII. Claim 25, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, peppermint oil, eugenol, phenethyl propionate and IOSPAR M, classified in class 424, subclass 747, for example.

IX. Claim 27, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, peppermint oil, soybean oil and menthyl salicylate, classified in class 424, subclass 757, for example.

X. Claim 33, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, peppermint oil and L-menthyl iso-valerate, classified in class 424, subclass 747, for example.

XI. Claim 35, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, peppermint oil, soybean oil and L-menthyl iso-valerate, classified in class 424, subclass 747, for example.

XII. Claim 48, drawn to a method for controlling or killing household pests by applying a composition with rosemary oil, piperonyl butoxide, soybean oil and an additional ingredient selected from the group consisting of eugenol, phenethyl propionate, peppermint oil and benzyl alcohol, classified in class 424, subclass 745, for example.

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Inventions of Groups I-XII are drawn to distinct method because they require the use of distinct compositions comprising different ingredients as claimed and/or different combinations of different ingredients as claimed. Thus, the several inventions above are independent and distinct, each from the other. They have acquired a separate status in the art as a separate subject for inventive effects and require independent searches. The search for each of the above inventions is not co-extensive particularly with regard to the literature search. Further, a reference which would anticipate the invention of one group would not necessarily anticipate or make obvious another group(s). For these reasons restriction for examination purposes is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR1.48(b) and by the fee required under 37 CFR1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (703) 308-9351. The examiner can normally be reached on Monday to Friday from 9:00 to 5:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vera Afremova

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June 25, 2003

VERA AFREMOVA

PATENT EXAMINER

A handwritten signature in dark ink, appearing to read 'V. Afremova', followed by a horizontal line.